AD_____

Award Number: DAMD17-03-C-0071

TITLE: Feasibility Study and Demonstration Project for a Joint Military/Civilian Trauma Institute with a Burn Center

PRINCIPAL INVESTIGATOR: Ronald M. Stewart, M.D.

CONTRACTING ORGANIZATION: University of Texas Health Science Center
San Antonio, TX 78229-3900

REPORT DATE: June 2005

TYPE OF REPORT: Annual

PREPARED FOR: U.S. Army Medical Research and Materiel Command
Fort Detrick, Maryland 21702-5012

DISTRIBUTION STATEMENT: Approved for Public Release;
Distribution Unlimited

The views, opinions and/or findings contained in this report are those of the author(s) and should not be construed as an official Department of the Army position, policy or decision unless so designated by other documentation.

REPORT DOCUMENTATION PAGE

Form Approved
OMB No. 0704-0188

1. REPORT DATE *(DD-MM-YYYY)*	2. REPORT TYPE	3. DATES COVERED *(From - To)*
01-06-2005	Annual	26 May 2004 - 25 May 2005

4. TITLE AND SUBTITLE
Feasibility Study and Demonstration Project for a Joint Military/Civilian Trauma Institute with a Burn Center

5a. CONTRACT NUMBER
DAMD17-03-C-0071

5b. GRANT NUMBER

5c. PROGRAM ELEMENT NUMBER

6. AUTHOR(S)
Ronald M. Stewart, M.D.

E-Mail: stewartr@uthscsa.edu

5d. PROJECT NUMBER

5e. TASK NUMBER

5f. WORK UNIT NUMBER

7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)
University of Texas Health Science Center
San Antonio, TX 78229-3900

8. PERFORMING ORGANIZATION REPORT NUMBER

9. SPONSORING / MONITORING AGENCY NAME(S) AND ADDRESS(ES)
U.S. Army Medical Research and Materiel Command
Fort Detrick, Maryland 21702-5012

10. SPONSOR/MONITOR'S ACRONYM(S)

11. SPONSOR/MONITOR'S REPORT NUMBER(S)

12. DISTRIBUTION / AVAILABILITY STATEMENT
Approved for Public Release; Distribution Unlimited

13. SUPPLEMENTARY NOTES

14. ABSTRACT
Abstract follows.

15. SUBJECT TERMS
Military/civilian trauma institute, burn center

16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT	18. NUMBER OF PAGES	19a. NAME OF RESPONSIBLE PERSON
a. REPORT	b. ABSTRACT	c. THIS PAGE			19b. TELEPHONE NUMBER *(include area code)*
U	U	U	UU	25	

13. Abstract ***(Maximum 200 Words)*** ***(abstract should contain no proprietary or confidential information)*** The purpose of the Trauma Institute of San Antonio, Texas (TRISAT) grant was to study and demonstrate the feasibility of a Trauma Institute and Burn Center with three primary missions (patient care, research, and education). Goals met: TRISAT members have studied how combining resources will generate greater financial sustainability; a national trauma consultant reviewed the financial/economic status of each program and presented recommendations; an independent legal firm reviewed issues related to military and civilian doctors providing services across hospital lines and submitted recommendations; Surgical/Anesthesia Critical care fellowship program curriculum and rotation schedules have been integrated; patient databases and a regional trauma registry have been developed allowing use of data for clinical research, both military and civilian; trauma and burn surgeons have submitted protocols for joint research and have begun multi-site clinical research. We will model coordinated trauma/burn care for the US with these goals: improved survival rates of military and civilian casualties, increased innovation in combat casualty care, improved educational experience for surgical/critical care trainees, improved pre-hospital evaluation and resuscitation, and improved mass casualty/disaster response capabilities.

Table of Contents

INTRODUCTION

The University of Texas Health Science Center at San Antonio (UTHSC) proposed to utilize $1.814M in congressional funding to work collaboratively with Brooke Army Medical Center (BAMC) and the US Army Institute of Surgical Research, Wilford Hall Medical Center (WHMC) and University Hospital (UH). The awarded grant enabled these partners to create TRISAT, which conducted a feasibility study and demonstrated the capabilities of this joint military/civilian Trauma Institute with a Burn Center. Level I trauma and burn care by TRISAT members cover Bexar County and State Trauma Service Area "P" (a 22 county region covering 26,000 square miles) and beyond. The Statement of Work described goals in the areas of patient care, research, and education, and specifically cited the need to secure and sustain the BAMC Burn Center. When the grant was awarded, the resulting numbers of casualties from the global war on terrorism were not yet known. The combat casualty care training that military physicians, nurses, and others receive by caring for civilian trauma patients is critical to their training and ability to care for soldiers, sailors, airmen and marines wounded in the battlefield. TRISAT hospitals care for 8,000 trauma admissions a year, military and civilian, making this the largest trauma program in the US.

BODY

The Statement of Work includes these tasks, which are each addressed in detail in this section:

1. Financial/economic review of current Level 1 trauma centers, the BAMC Burn Center, and trauma surgeon groups, military and civilian.
2. Legal review of issues, obstacles, and implications for military and civilian business with Medicare, Medicaid, and third party insurance companies
3. Resident/Fellow Education
4. Clinical research
5. Trauma/Burn surgeon resources
6. Other opportunities for collaboration

In order to address these tasks, members formed a Board of Directors and Command Council, with a set of written Organizational Principles for management and governance of TRISAT. Staff includes a Project Coordinator and Research Assistant.

Financial/Economic Review

The TRISAT Board of Directors contracted with Bishop + Associates, a nationally recognized consultant specializing in trauma programs, to conduct a financial assessment of the current status of each trauma program, burn center, and trauma surgeon "practice". The scope of the project included estimating incremental reimbursement and recommended operational enhancements to billing activities by civilian and military physicians and hospitals. The Executive Summary is appended to this report and states that hospital and physician trauma and burn charges are sub-optimal, as shown in the table below.

TRISAT staff has completed a project describing the necessary processes for physician billing by military treatment facilities that may be implemented following changes in regulations currently preventing this activity. When these changes occur, TRISAT members will be able to fully pursue financial goals, which would result in incremental clinical income from physician services of over $6 million a year.

CURRENT & OPTIMAL TRAUMA AND BURN REIMBURSEMENT

	Current $	Optimal $	Change $
Hospital			
UHS	22,229,214	28,925,788	6,696,574
BAMC	6,347,148	13,279,655	6,932,507
BAMC Burn	4,450,293	7,112,023	2,661,730
WHMC	6,962,489	11,286,075	4,323,586
Total	39,989,144	60,603,541	20,614,397
Physician			
UPG	1,962,893	3,881,469	1,918,576
BAMC	-	1,746,990	1,746,990
BAMC Burn	-	576,000	576,000
WHMC	-	2,270,979	2,270,979
Total	1,962,893	8,475,438	6,512,545
Trauma/ Burn Totals	41,952,037	69,078,979	27,126,942

Legal Review

TRISAT contracted with McDermott, Will & Emery to conduct a review of current federal and state laws and regulations specific to military and civilian billing/collection relationships with Medicare, Texas Medicaid, and third party commercial insurers. The review has been completed and is specific to both allowable practices, and obstacles to be addressed. The Executive Summary js appended to this report. Key recommendations (Possible Action Items) address these questions:

A. Can a civilian physician bill for trauma care provided at a military treatment facility?
B. Can the military bill for trauma care provided to civilians?
C. Can a military physician bill for trauma care at a trauma facility?

The review also explored physician licensure and malpractice issues related to the same questions.

Resident/Fellow Education

TRISAT members have integrated the curriculum and clinical rotation schedules of Surgical and Anesthesia Critical Care Fellows under the guidance of the TRISAT Critical Care Education Consortium. Fellowship Program Directors developed and provide oversight for three critical care fellows and plan to increase fellowship positions over each of the next several years. Currently the

program includes two Surgical Critical Care fellows and one Anesthesia Critical Care fellow.

TRISAT members share responsibility for two (2) lectures per week, over 90 per year, delivered by video teleconference at all three sites to faculty, fellows, residents and students. Lectures are prepared and given by faculty and fellows.

A reading compendium covering the required curriculum for surgical and anesthesia critical care fellows has been compiled and made available to fellows on-line. Program directors share responsibility for adding current relevant literature to the compendium and creating self-assessment questions that must be answered by the fellow for each article read.

A clinical rotation schedule was developed for all critical care fellows so that ACGME guidelines and clinical needs are met at each facility.

The 2006 lecture schedule and clinical rotation schedule are appended to this report.

Clinical Research

The TRISAT Research Group includes surgeons, research nurses and staff from all facilities. The group meets on a biweekly basis to consider ideas for research as well as protocols under development at any one facility.

In the first grant year, TRISAT successfully completed the requirements to obtain community consent in lieu of individual informed consent for clinical research of an artificial hemoglobin product developed by Northfield Laboratories. Trauma surgeons presented research information to thirteen (13) community groups across our 22-county service area and participated in media coverage that resulted in IRB approval of the community consent process, which will be important to any future trauma-related clinical research. Protocols now in development will necessitate use of community consent processes again.

TRISAT has applied for NIH grants, sponsored studies, and grants from other agencies. Presently, one TRISAT member/physician serves as Principal Investigator on each grant/study and receives and disburses funds accordingly. In 2005, TRISAT will establish the TRISAT Research Foundation so that it can seek, accept and distribute research funds to TRISAT members.

Trauma Surgeon Resources

The TRISAT Board recruited Dr. Steven Wolf to become the first civilian director of the Burn Center at BAMC. Dr. Wolf joined the Burn Center on 6 April 2004 and

is also involved in clinical research in burns at the USAISR. Dr. Wolf is an employee of UTHSC on full-time assignment to the USAISR/Burn Center.

CPT Daren Danielson is a trauma surgeon in the USAF. Through this collaboration, he joined UTHSC as a faculty member and completed a two-year assignment at the civilian University Hospital as a member of the trauma surgeon team.

Other Opportunities for Collaboration

TRISAT coordinated the development of the Regional Trauma Registry and Database project with the state's Regional Advisory Council for Trauma. All of the hospitals providing trauma services in 22 counties, and 35 EMS companies participate by utilizing the same trauma registry software. This is resulting in available, accessible and standardized patient data for clinical research conducted by TRISAT members.

Key Research Accomplishments

The purpose of this grant is not research. Key accomplishments other than research are addressed in the Body section of this report.

Reportable Outcomes

Not applicable to the purpose of this grant

Conclusion

TRISAT is a unique combination of military and civilian trauma and burn centers and will serve as a model of coordinated care, research and education across multiple locations within a city. Preliminary reports illustrate that there are significant opportunities for improved operations and financial outcomes through this collaboration. Given the increasing restrictions on reimbursement for civilian trauma services, whether delivered at civilian or military facilities, it is clear that any opportunity for increased revenue outside of government subsidization is advantageous. Generating increased revenue in these programs enhances our ability to conduct independent investigator-initiated research, extend training inside our institutions and beyond, and solidifies the presence of much-needed Level 1 trauma services to civilians and military services. Most of these improvements will not be possible under current regulations that prevent military treatment facilities from billing private insurance companies for care delivered to civilians.

The vision for TRISAT includes becoming the primary site for trauma and burn research in the U.S. and preserving and building the strength and reputation of the internationally recognized BAMC Burn Center. Measurable improvements due to our work will include: improved survival rates of civilian and military casualties; increased innovation in combat casualty care; improved educational experience for UTHSC and DoD surgical/critical care trainees; improved pre-hospital evaluation and resuscitation; and improved mass casualty/disaster response in South Texas and at the U.S./Mexico border.

We will implement initiatives that include a surgical research center of excellence, burn center research and program development, video teleconference technology to connect all centers to each other for purposes of disaster/bioterrorism response coordination and shared professional education, a regional ICU registry that will provide the data needed to further research, and the support infrastructure needed to develop these initiatives.

The global war on terrorism presents a critical and increasing need for combat casualty care; since our military partners (BAMC and WHMC) are the only two Level1 Trauma Centers and the BAMC Burn Center is the only ABA-verified burn program in the DoD, trauma training at these sites is critical. US military trauma program directors in Iraq praise the accomplishment of deployed San Antonio trained staff. Physicians, nurses and enlisted members from the Army and Air Force utilize their skills obtained from daily trauma training in their respective Level 1 Trauma Centers. The intangible aspects of experience and confidence, derived from direct clinical practice in the military's only level I trauma centers, continues to save lives on the battlefield. Continued TRISAT research and clinical studies enable us to develop new protocols for trauma management that will save soldiers in future conflicts and victims of trauma at home.

TRAUMA INSTITUTE OF SAN ANTONIO
Trauma Center Financial Performance
Summary Report
July 2004

PROJECT SCOPE

Bishop+Associates was engaged to provide an overall financial analysis of trauma and burn services provided by University Hospital/University of Texas, Brooke Army Medical Center and Wilford Hall USAF Medical Center. This analysis encompassed a review of available financial data including the following:

- Patient Volumes & Severity
- Hospital Patient Days (Including ICU)
- Hospital Charges & Reimbursement Stratified By Payer
- Direct, Indirect, & Extraordinary Hospital Costs
- Trauma Surgeon RVU's & Charges Stratified By Payer
- Physician Reimbursement
- Mechanism Of Injury & Mode Of Transport

Data was analyzed and benchmarked against data from the National Foundation for Trauma Care and previous B+A trauma center assessments of Texas and other states and regions. Data that was unavailable but required to complete the analysis was modeled from the data provided, or from other credible sources.

FINDINGS OF FINANCIAL ANALYSIS

The financial analysis reflects an opportunity for significant improvement of area-wide reimbursement for trauma and burn services in San Antonio.

Current hospital and physician reimbursement for civilian trauma and burn care at the three San Antonio facilities is estimated at $41,952,000. Optimal reimbursement is estimated at $69,079,000; an increase of 65% or $27,127,000. This estimate is based upon best practices.

Realistic expectations for achievement are in the range of 80% to 100% of incremental dollars. Therefore, incremental increases in reimbursement of at least $13,564,000 would be considered successful.

Given that the military physician billing for civilian care and specialties outside of trauma surgery will be implemented within the consolidated trauma billing program over a period of six to twelve months, incremental improvements in reimbursement of this magnitude will be achievable within a two year timeframe.

TRAUMA & BURN PATIENT VOLUME

Injury Severity Score	UHS	BAMC	WHMC	Total
0-8	972	513	660	2,145
9-14	591	249	210	1,050
15-24	312	143	114	569
>24	216	121	144	481
Burn Pts		310		310
Total:	**2,091**	**1,336**	**1,128**	**4,555**

CURRENT & OPTIMAL TRAUMA AND BURN REIMBURSEMENT

	Current $	Optimal $	Change $
Hospital			
UHS	22,229,214	28,925,788	6,696,574
BAMC	6,347,148	13,279,655	6,932,507
BAMC Burn	4,450,293	7,112,023	2,661,730
WHMC	6,962,489	11,286,075	4,323,586
Total	39,989,144	60,603,541	20,614,397
Physician			
UPG	1,962,893	3,881,469	1,918,576
BAMC	-	1,746,990	1,746,990
BAMC Burn	-	576,000	576,000
WHMC	-	2,270,979	2,270,979
Total	1,962,893	8,475,438	6,512,545
Trauma/ Burn Totals	41,952,037	69,078,979	27,126,942

CONCLUSIONS

Accomplishment of significant improvement in financial performance will be dependent upon several factors:

- Timely and effective implementation of a discreet consolidated billing program for trauma and burn cases
- Implementation of trauma activation fees in the hospital setting
- Carve out of trauma from hospital and physician managed care contracts
- Extent, allocation, and continuation of Texas State trauma funding
- Change in Texas Medicaid regulations to allow military physician billing

McDermott
Will&Emery

Los Angeles

MEMORANDUM

Date: June 2, 2004

cc: Tim O'Leary

To: Greg Bishop **From:** McDermott Will & Emery

Re: Executive Summary Regarding Core TRISAT Legal Issues With Respect to Military/Civilian Trauma Services

---

In response to the issues raised in your memorandum to Sharon Smith, dated January 6, 2004, and entitled "Core TRISAT Legal Issues," as modified by the subsequent meeting at our offices, this Executive Summary provides a brief description of our analysis regarding several issues related to a joint program between military and civilian facilities and physicians for the provision of trauma care. A more detailed legal memorandum as well as backup documents from our legal research are attached.

MILITARY/CIVILIAN BILLING ISSUES

A. Can a Civilian Physician Bill for Trauma Care Provided at a Military Treatment Facility ("MTF")?

1. Civilian physician at MTF caring for civilian patients

The Department of Defense ("DOD") is required to implement procedures under which an MTF may bill for providing trauma and other medical care to civilians. The MTF may retain and use the amounts collected. The only DOD guidance on this issue allows the MTF to generate bills for hospital and professional services provided to civilian emergency patients. There are no provisions addressing whether a military or civilian physician could bill separately for services provided to civilians at an MTF. It is likely that if a civilian provider is rendering medical services at an MTF, such services are presumably being provided pursuant to an internal resource sharing agreement, with the parties specifying whether the military would pay the non-military provider for services or whether the non-military provider would bill third party payors.

According to Texas Medicaid program requirements, "Although Medicare reimburses for emergency outpatient and inpatient services, Medicaid does not reimburse for either outpatient or physician services." [Texas Medicaid Manual, Part I, §32.3.2]. Thus, civilian physicians may not bill the Medicaid program for services provided in MTFs.

We found no Medicare program prohibitions regarding a civilian physician enrolled in the Medicare program billing for services provided in an MTF.

Possible Action Items: Develop internal resource sharing agreement that allows the civilian physician to bill third party payers for services provided at the MTF. Change

Texas Medicaid reimbursement limitations regarding physician services in MTFs, as currently set forth in Texas Medicaid Manual, Part I, §32.3.2.

2. Civilian physician caring for active military patients

According to DOD requirements, a civilian doctor providing care to an active military patient in a military facility may be covered by an internal resource sharing arrangement. Alternatively, a civilian doctor may be able to bill the military directly for his or her services absent a resource sharing agreement.

Possible Action Item: Determine whether an internal resource sharing agreement is necessary or whether such civilian physician services in MTFs can be billed directly to the military.

3. Civilian physician caring for military retirees and dependents

According to DOD requirements, this arrangement would likely arise pursuant to a resource sharing arrangement. Under a resource sharing agreement, the civilian physician would bill the military for the services rendered. Alternatively, a civilian doctor may be able to bill the military directly for his or her services absent a resource sharing agreement.

Possible Action Item: Determine whether an internal resource sharing agreement is necessary or whether such civilian physician services in MTFs can be billed directly to the military.

B. Can the Military Bill for Trauma Care Provided to Civilians?

The DOD is required to implement procedures under which an MTF may charge fees to civilians or their insurers to cover the costs of trauma and other medical care provided to such civilians. The MTF may retain and use the amounts collected for (1) trauma consortium activities; (2) administrative, operating, and equipment costs; and (3) readiness training. According to statutory authority, MTFs have the right to bill and retain third party payments for services rendered to civilians. Regulations require that third party payers receive and pay a claim for services in the same manner and for the same charges as any similar services provided by a facility of the Uniformed Services.

An MTF can participate and be reimbursed for emergency inpatient and outpatient services provided to civilian Medicare beneficiaries. Under Medicare program requirements, the MTF need not be licensed in the state where it provides services. There is also a mechanism in place for MTFs to submit bills to the Medicare program, although it is not known whether the mechanism is effective.

MTFs may provide and be reimbursed for limited inpatient emergency services provided to Medicaid civilian beneficiaries. In order to bill for services, the Texas Medicaid Program requires that the MTF be certified by Medicare and have a valid provider agreement by

completing the Medicaid enrollment process. The Medicaid program does not require that a MTF meet Texas state licensure requirements.

A military physician may obtain provider numbers and enroll in the Medicare program in order to bill for services provided to Medicare civilian beneficiaries at MTFs. According to Texas Medicaid program requirements, military physicians may not bill the Medicaid program for services provided in MTFs.

Possible Action Items: MTFs would need to develop a fee schedule in order to bill non-governmental third party payers for physician and facility services. With respect to Medicare reimbursement, the military physicians would need to obtain Medicare provider numbers. With respect to Medicaid reimbursement, amend the current Texas Medicaid rules prohibiting reimbursement for physician services in MTFs as set forth in Texas Medicaid Manual, Part I, §32.3.2.

C. Can a Military Physician Bill for Trauma Care at a Civilian Facility?

There are no DOD manual provisions or regulations that address this situation. Staff at TRICARE Management Activity ("TMA") stated that, historically, a military physician would be at the civilian facility to treat non-civilian patients only. However, where there was, for example, a shortage of physicians, the provision of trauma care at a civilian facility by a military provider could occur where the military physician was on-site pursuant to an external resource sharing agreement and was needed to treat a civilian patient because a civilian physician was not available. TMA staff was not aware of circumstances where the military physician would bill for services rendered to the civilian. However, it is possible that a resource sharing agreement could provide that the civilian facility or faculty practice plan could bill for the military physician services to civilians as there are no specific prohibitions on a military physician who is properly licensed billing for services provided at a civilian facility.

A military physician may obtain provider numbers and enroll in the Medicare program in order to bill for services provided to Medicare civilian beneficiaries at non-MTF facilities. The Medicare program does not require that physicians working in the scope of their federal employment be licensed in the state where they are providing services.

The Texas Medicaid Program manual does not allow physicians to enroll in the Medicaid program unless they are "authorized by the licensing authority of their profession to practice in the state where the service is performed at the time services are provided." [Texas Medicaid Manual, Part I, §34.1.1] We contacted the enrollment unit of the Medicaid program and asked whether this requirement would apply to active military physicians who hold part-time appointments at Texas medical schools, allowing them to be eligible for "faculty temporary permits" issued by the Texas Medical Board. We were told that faculty temporary permits would not be a substitute for licensure and that all physicians can only participate and bill Medicaid for their services only if they are licensed in Texas.

Possible Action Items: Seek clarification from DOD regarding developing an external resource sharing agreement that allows the civilian facility or faculty practice plan to bill

for the military physician services to civilians. With respect to Medicare reimbursement, the military physicians would need to obtain Medicare provider numbers. With respect to Medicaid reimbursement, "faculty temporary permits" issued by the Texas Medical Board will not assist the physicians in billing the Medicaid program absent a change in the licensing requirements in Texas Medicaid Manual, Part I, §34.1.1 or the interpretation of those requirements by the Texas Medical Assistance Program.

PHYSICIAN FACILITY LICENSURE AND MALPRACTICE ISSUES

A. Military Physician Licensure in Texas.

Federal law requires that all military health care providers must have a current appropriate health care license, but such license may be from a state other than the state in which such provider practices so long as the provider is performing duties authorized by the Department of Defense ("DoD"). Services authorized by the DoD are interpreted to include health care services rendered at a civilian health care facility pursuant to a Resource Sharing Agreement, as well as such services rendered at an MTF. Nevertheless, the Texas Medical Board of Examiners (the "Texas MBE") generally takes the position that a military health care provider must have a Texas license unless that provider is practicing in a federal facility. While it appears that the position of the Texas MBE may be subject to federal preemption, we are aware of no case law in Texas or elsewhere regarding this specific issue.

However, the Texas MBE created an exception to its rules, effective September 14, 2003, for active military physicians who hold part-time appointments at Texas medical schools, allowing them to be eligible for "faculty temporary permits" if the physician holds a faculty position of assistant professor or higher and works at least on a part-time basis at, inter alia, the University of Health Science Center at San Antonio. Under this new rule, the Texas MBE must also determine that the physician's practice under the faculty temporary permit will fulfill a critical need of the citizens of Texas and that the physician meets certain other requirements of the rule. This "loophole" would appear to permit non-Texas-licensed military physicians to care for patients at that facility if they qualify for such "faculty temporary permits.".

On the other hand, it is clear that a civilian health care professional providing services in an MTF must have an appropriate Texas health care professional license. Note that if a provider does not hold a valid and appropriate license or certification, TRICARE will make no payment for otherwise covered services.

Possible Action Items: Those military physicians who are not licensed in Texas should apply for a "faculty temporary permit" from the Texas MBE. However, the "faculty temporary permit" will not allow such physicians to bill the Medicaid program absent a change in the licensing requirements in Texas Medicaid Manual, Part I, §34.1.1' and/or the interpretation of those requirements by the Texas Medical Assistance Program. Thus, that provision would need to be amended or the Program's interpretation changed in order to permit such physicians to bill and collect from the Texas Medicaid program.

B. Military Physician Malpractice in Texas.

All claims by military personnel and their dependents for negligent health care provided by military physicians must be brought under the Federal Tort Claims Act. (Note that active duty military personnel are not entitled to bring such a claim, based on the 1950 United States Supreme Court case, Feres v. United States.) Thus, the civilian institutions participating in TRISAT would need to consider accepting such Federal Tort Claims Act coverage for military physicians, in lieu of traditional malpractice coverage. In the highly unlikely event that the military health care provider also treats civilian patients and has a medical malpractice coverage for his private practice, a patient alleging malpractice could pursue a claim under such insurance. In addition, if the services are provided in a civilian health care facility, that facility may be sued for malpractice or corporate negligence based upon, for example, negligently approving or supervising such physician's provision of services in the facility.

It is recommended that military residents/physicians have civilian medical malpractice coverage in addition to federal coverage to practice at civilian facilities.

Possible Action Items: Amend Federal Tort Claims Act to cover services provided by military physicians in non-military facilities within the scope of a resource sharing agreement and/or in case of shortage of trauma services. However, obtaining an amendment of the Federal Tort Claims Act is unlikely. An alternative would be for either TRISAT or the non-military facilities or the Faculty practice plan at the University Health Science Center to cover such military physician services under an umbrella malpractice policy or, or cover additional insureds under their existing policy, if such coverage is available at a reasonable cost.

C. Malpractice Cap in Texas.

The malpractice cap provisions governing state licensed acute hospitals in Texas would apply if such facilities are sued for malpractice on the basis of a military physician's provision of care at such a facility, e.g., under a Resource Sharing Agreement since there is no express exclusion. It would not apply to military facilities, where such liability is covered under the Federal Tort Claims Act.

Possible Action Items: None identified.

TRAUMA INSTITUTE/CONSOLIDATED TRAUMA PHYSICIAN/FACILITY BILLING ISSUES

A. Consolidated Billing.

1. Facility Services.

Under Medicare rules, facility may bill Medicare for inpatient and outpatient hospital services. [42 U.S.C. §1395y(a)] Nevertheless, a facility may enter into a contractual arrangement with another entity that serves as a billing agent for the facility and/or provides other management of

services such as trauma. The management or billing compensation need to be consistent with the fair market value of the services so as not to run afoul with the Anti-Kickback Law that covers participation in federal health care programs including Medicare and Medicaid. [42 U.S.C. §1320a-7b(b).]

Possible Action Items: Change the Medicare rules regarding billing for facility services in 42 U.S.C. §1395y(a), which is unlikely, or have TRISAT enter into management/billing agreements with the facilities.

2. Physician Services.

Under the Medicare and Medicaid programs participating facilities may not have another entity bill and collect for services. However, there are exceptions to what is called the "reassignment rule" which are applicable to physician services. Under an exception to the Medicare and Medicaid reassignment rules, the employer of the military physicians or the facility (i.e., either the MTF or civilian facility) where the services are performed may bill for their services. [Medicare Claims Processing Manual, CMS Pub. 100-04 §30.2; *see also* 42 U.S.C. §1395u(b)(6) and 42 C.F.R. §424.80] Under new amendments to the Medicare reassignment rule, any entity may bill and collect on behalf of physicians if the entity is enrolled in the Medicare program. However, this exception would have limited applicability to TRISAT because Medicare has specific categories of providers/suppliers, and the only type under which TRISAT might be able to qualify would be as a physician group or clinic. If TRISAT were to form a physician group or clinic (e.g., operating as a Texas 501(a) foundation) it could obtain Medicare and Medicaid numbers and then bill and collect for the services of its individual physician members.

Alternatively, TRISAT could function as the billing agent for the physicians. However, the Medicare and Medicaid rules require that the agent's compensation be (1) related to the cost of billing, (2) not be dependent on the payment collection, and (3) not be related on a percentage basis or other basis to the amount that is billed and collected. Entities have established what is called a "lockbox arrangement" in order to have different agent compensation (e.g., based on a percentage of revenue.) Under such a lockbox arrangement, the physician group would open a bank account that the group ultimately controls, with instructions to the bank to sweep the account daily into the agent's account. Note that such lockbox arrangements have been questioned by the government and it is possible that they may be prohibited in the near future.

Possible Action Items: Have TRISAT form and manage a Texas 501(a) foundation that includes the military physicians as employees or independent contractors. Alternatively, either change Medicare and Medicaid rules that would prohibit TRISAT from billing and collecting directly from the Medicare and Medicaid programs in 42 U.S.C. §1395u(b)(6), 42 C.F.R. §§424.80 and 447.10 and Medicare Claims Processing Manual §30.2, which is unlikely, or have TRISAT enter into a billing agent/lockbox arrangement with the physicians.

B. Texas Legal Entities Flow of Funds to DOD Facilities.

As agreed at the meeting at our offices, these issues are beyond the scope of this report. However, in light of the distinct and separate physician licensure and medical malpractice rules for military physicians, as summarized above, and in particular the Texas MBE position on non-Texas-licensed military physician practice, it does not appear that military physicians and facilities could become owners of a Texas 501(a) Foundation entity without an express statutory authorization to do so under both federal and Texas law.

Possible Action Items:

Additional legal research and analysis beyond the scope of this memorandum is required to determine definitively if military physicians participate in a form a Texas 501(a) foundation entity with non-military physicians. The military physicians only may be allowed to subcontract with the 501(a) entity for the provision of their services. Military physician ownership in the 501(a) entity may be viewed by the military as unduly exposing the federal government to vicarious liability for the actions of all physician owners of the 501(a) entity.

VTC Critical Care Fellowship Lecture Schedule 2005-2006

Topic	Date	Institution	Speaker	Title
Resuscitation	Tue 05 Jul 05	BAMC	Staff	COL John Holcomb - Shock
	Thu 07 Jul 05	UT	Staff	
Alan.Murdock@LACKLAND.AF.MIL	Tue 12 Jul 05	WHMC	Dr Murdock	End Points of Fluid Resuscitation
	Thu 14 Jul 05	BAMC		Journal Club
Cardiovascular	Tue 19 Jul 05	BAMC	Staff	
	Thu 21 Jul 05	UT		
	Tue 26 Jul 05	UT	Staff	
	Thu 28 Jul 05	WHMC		
Respiratory				
Michael.Vandekieft@LACKLAND.AF.MIL	Tue 02 Aug 05	WHMC	Dr Van De Kieft	APRV
	Thu 04 Aug 05	BAMC		
	Tue 09 Aug 05	BAMC	Staff	
	Thu 11 Aug 05	UT		Journal Club
Renal	Tue 16 Aug 05	UT	Staff	
	Thu 18 Aug 05	WHMC		
Christopher.Glanton@LACKLAND.AF.MIL	Tue 23 Aug 05	WHMC	Dr Glanton	CRRT
	Thu 25 Aug 05	BAMC	Staff	
Nutrition (Steven.Wolf@CEN.AMEDD.ARMY.MIL)	Tue 30 Aug 05	UT	Staff	Steve Wolf, M.D. - Nutritional Adjuncts in Severe Trauma and Illness
	Thu 01 Sep 05	WHMC	Staff	
CNS	Tue 06 Sep 05	BAMC	Staff	
	Thu 08 Sep 05	WHMC		Journal Club
	Tue 13 Sep 05	UT	Staff	
	Thu 15 Sep 05	UT		
Pain Management				
	Tue 20 Sep 05	WHMC	Dr Edell	Thoracic Trauma Pain Management
	Thu 22 Sep 05	BAMC		
Cardiovascular	Tue 27 Sep 05	BAMC	Staff	
	Thu 29 Sep 05	UT	Staff	
Metabolic/Endocrine				
mark.true@lackland.af.mil	Tue 04 Oct 05	WHMC	Dr True	Management of Hyperglycemia in the ICU
	Thu 06 Oct 05	WHMC		
Gastrointestinal	Tue 11 Oct 05	BAMC	Staff	
	Thu 13 Oct 05	UT		Journal Club
Infectious Disease	Tue 18 Oct 05	UT	Staff	
Robert.Oconnell@LACKLAND.AF.MIL	Thu 20 Oct 05	WHMC	Dr Christopher	Antibiotic Strategies in the ICU
	Tue 25 Oct 05	BAMC	Staff	
	Thu 27 Oct 05	BAMC		
Environmental Hazards	Tue 01 Nov 05	UT	Staff	

VTC Critical Care Fellowship Lecture Schedule 2005-2006

	Thu 03 Nov 05	UT		
Infectious Disease				
	Tue 08 Nov 05	WHMC	Staff	
	Thu 10 Nov 05	BAMC		Journal Club
Topic	**Date**	**Institutio**	**Speaker**	**Title**
Hematology/Blood Products	Tue 15 Nov 05	BAMC	Staff	
	Thu 17 Nov 05	UT	Staff	
Mark.DeLeon2@LACKLAND.AF.MIL	Tue 22 Nov 05	WHMC	Dr DeLeon	ICU Thrombocytopenia
	Thu 24 Nov 05	BAMC		**THANKSGIVING DAY - VTC Canceled**
Gastrointestinal	Tue 29 Nov 05	BAMC	Staff	
	Thu 01 Dec 05	UT		
Genitourinary	Tue 06 Dec 05	UT	Staff	
	Thu 08 Dec 05	BAMC		Journal Club
Trauma				
Donald.Jenkins@LACKLAND.AF.MIL	Tue 13 Dec 05	WHMC	Dr Jenkins	Trauma Care for the Intensivst
	Thu 15 Dec 05	BAMC	Staff	
Holiday Break 19-30 December				
Trauma	Tue 03 Jan 06	BAMC	Staff	
	Thu 05 Jan 06	UT		
	Tue 10 Jan 06	UT	Staff	
	Thu 12 Jan 06	WHMC		Journal Club
SCCM Meeting 19-25 January 06				
Monitoring/Hemodynamics	Tue 31 Jan 06	BAMC		
	Thu 02 Feb 06	UT		
ICI Course 7-17 February 06				
Pediatrics	Tue 21 Feb 06	WHMC	Staff	
	Thu 23 Feb 06	UT		Journal Club
Endocrine	Tue 28 Feb 06	WHMC		
	Thu 02 Mar 06	BAMC	Staff	
Ethics	Tue 07 Mar 06	UT	Staff	
	Thu 09 Mar 06	WHMC		Journal Club
	Tue 14 Mar 06	WHMC	Staff	
	Thu 16 Mar 06	BAMC		
Pharmacology	Tue 21 Mar 06	BAMC	Staff	
	Thu 23 Mar 06	WHMC	Staff	
	Tue 28 Mar 06	UT	Staff	
	Thu 30 Mar 06	WHMC	Staff	

VTC Critical Care Fellowship Lecture Schedule 2005-2006

Patient Transport	Tue 04 April 06	BAMC	Staff	
	Thu 06 Apr 06	WHMC		
ICU Administration	Tue 11 Apr 06	UT	Staff	
	Thu 13 Apr 06	WHMC		Journal Club
Topic	**Date**	**Institutio**	**Speaker**	**Title**
Cost Effective Care	Tue 18 Apr 06	WHMC	Staff	
	Thu 20 Apr 06	BAMC	Staff	
Monitoring	Tue 25 Apr 06	UT	Staff	
	Thu 27 Apr 06	BAMC		
Interpersonal Communication	Tue 02 May 06	WHMC	Staff	
	Thu 04 May 06	UT	Staff	
Respiratory	Tue 09 May 06	BAMC	Staff	
	Thu 11 May 06	WHMC		Journal Club
	Tue 16 May 06	UT	Staff	
	Thu 18 May 06	WHMC	Staff	
CNS	Tue 23 May 06	BAMC	Staff	
	Thu 25 May 06	BAMC		
	Tue 30 May 06	UT	Staff	
	Thu 01 Jun 06	WHMC	Staff	
Environmental Hazards	Tue 06 Jun 06	BAMC	Staff	
	Thu 08 Jun 06	UT	Staff	Journal Club
Transplant	Tue 13 Jun 06	UT	Staff	
	Thu 15 Jun 06	WHMC		
Infectious Disease	Tue 20 Jun 06	WHMC	Staff	
	Thu 22 Jun 06	BAMC		

FY 06 Fellowship Clinical Rotation Schedule

Block	1	2	3	4	5	6	7	8	9	10	11	12	13
Dates	7/1-728	7/29-8/25	8/26-9/22	9/23-10/20	10/21-11/17	11/18-12/15	12/26-1/12	1/23-2/9	2/10-3/9	3/10-4/6	4/7-5/4	5/5-6/1	6/2-6/30
WHMC	Research	WHMC SICU	WHMC SICU	Santa Rosa PICU	UT SICU	UT SICU	MICU	BAMC Burn Unit	Research and ICI course	U. Cincinnati SICU	MICU	BAMC SICU	BAMC SICU
Army	BAMC Burn Unit	BAMC SICU	UT SICU	UT SICU	Elective	BAMC SICU	BAMC Burn Unit	Elective	UT SICU and ICI Course	BAMC SICU	BAMC SICU	WHMC SICU	WHMC SICU
UT	UT SICU	UT SICU	BAMC SICU	BAMC SICU	BAMC Burn Unit	Santa Rosa PICU	UT SICU	UT SICU	WH SICU and ICI	WHMC SICU	WHMC SICU	Elective	Elective
VTC Viewers	3	3	3	2	3	2	3	3	3	2	3	2	2
WH has fellow													
B has fellow													
UT Has Fellow													
ICI Course									Feb 6-17				
Meeting								SCCM Jan 20-15					

One lecture per month/fellow
One Journal club/month
16 Articles per month from compendium with self assessment questions